

Remarks

The Office Action mailed December 13, 2007 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1 and 3-25 are now pending in this application. Claims 1 and 3-24 stand rejected. Claims 25 and 26 are newly added. Claim 18 has been canceled. No new matter has been added.

Applicants and the undersigned wish to express their appreciation to Examiner Champagne and Examiner Zeender for the courtesies they extended during a telephone interview that occurred on March 28, 2008. During the interview, the Office Action dated December 13, 2007 was discussed. More specifically, the undersigned discussed the differences between the present invention and the system described in Garber et al. (U.S. Patent No. 7,044,373) ("Garber"), and discussed a proposed amendment to the claims to further overcome the cited art.

For example, the undersigned pointed out that neither Garber nor Walsh describes or suggests a portable display stand having a single radio frequency antenna and a radio frequency identification tag reader being operably configured to interrogate any radio frequency identification tags located within the display area. Rather, in contrast to the present invention, Garber describes a portable cart that includes wooden shelves that require an antenna attached to each shelf to be able to interrogate articles only on that shelf and Walsh describes a display stand that does not include any radio frequency antenna or identification tag reader.

Furthermore, the undersigned pointed out that none of the cited references describe or suggest a radio frequency antenna that is affixed to the portable display stand by printing the antenna on a surface of the portable display stand with metallic ink.

Although no agreement was reached during the Examiner Interview, the foregoing Amendment has been made in consequence of the Examiner Interview and in accordance with what was discussed during the Interview. If the Examiner wishes to discuss this matter further after reviewing this Amendment, the Examiner is invited to contact the undersigned.

The rejection of Claims 1, 3-22 under 35 U.S.C. § 103(a) as being unpatentable over Garber et al. (U.S. Patent No. 7,044,373) ("Garber") in view of Walsh et al. (U.S. Patent No. 6,394,290) ("Walsh") is respectfully traversed.

Garber describes using various RFID devices to read information from an RFID tag on an item, specifically, library materials such as books, periodicals, and magnetic and optical media. Garber further describes placing sorted books onto portable carts to be transported to their appropriate locations in the library. The portable carts incorporate portable RFID devices, which in combination with antennas running the length of each cart shelf, enable the cart to take an inventory of the items.

Walsh describes a display stand for use in point-of-purchase display in the advertising industry. The display stand is formed from a single sheet of corrugated paper board. The display stand includes shelves for supporting the articles to be displayed that have a support and securing means which prevent the shelves as well as the display stand from bulging or sagging after repeated and extended use. The securing means includes a plastic hook affixed to the display stand with pop rivets or eyelets. The shelves of the display unit are formed from an extended and foldable portion of the front panel, and a foldable portion of the back panel. The stand is also provided with shelf securing means for connecting the side panels and the shelves, which provide added stability to the display stand while weight-bearing.

Claim 1 recites a system for monitoring inventory in a point of purchase display, including a portable display stand, having a display area including at least one shelf, operably configured to support an article being displayed for sale thereon, the portable display stand configured to be collapsible...the display stand further having at least one of a bottom wall, a side wall, a back wall, a top wall, a front wall...at least one article being displayed for sale within the display area, said article operably configured to be positioned on the at least one shelf...the at least one article containing a radio frequency identification tag...a single radio frequency antenna, affixed to at least one of the bottom wall, the side wall, the back wall, the top wall, and the front wall...a radio frequency identification tag reader, operably connected to the radio frequency antenna, for transmitting to and receiving radio frequency signals from the radio frequency identification tag, the radio frequency identification tag reader being operably configured to interrogate any radio frequency identification tags located within the display area...the radio frequency identification tag reader being operably connectable to a

remotely situated monitoring apparatus, for providing a remote indication of the presence and absence of the at least one article containing a radio frequency identification tag, within the display.”

Neither Garber nor Walsh considered alone or in combination, describe or suggest a system for monitoring inventory in a point of purchase display as recited in Claim 1. Specifically, neither Garber nor Walsh describes or suggests a portable display stand, having a single radio frequency antenna and a radio frequency identification tag reader being operably configured to interrogate any radio frequency identification tags located within the display area. Rather, in contrast to the present invention, Garber describes a portable cart, including wooden shelves that require an antenna attached to each shelf to be able to interrogate articles only on that shelf and Walsh describes a display stand for use in point-of-purchase display including shelves supported and secured using a plastic hook affixed to the display stand with pop rivets or eyelets. For reasons set forth above, Applicant respectfully submits that Claim 1 is patentable over Garber in view of Walsh.

Claims 3-9, 21, and 22 depend from independent Claim 1. When the recitations of Claims 3-9, 21, and 22 are considered in combination with the recitations of Claim 1, Applicant submits that dependent Claims 3-9, 21, and 22 likewise are patentable over Garber in view of Walsh.

Claim 9 recites a system for monitoring inventory in a point of purchase display including a portable display stand, having at least one shelf, operably configured to support an article being displayed for sale positioned thereon, the portable display stand substantially fabricated from paperboard...the display stand further having at least one of a bottom wall, a side wall, a back wall, a top wall, a front wall...at least one article being displayed for sale, said article operably configured to be positioned on the at least one shelf...the at least one article containing a radio frequency identification tag...a single radio frequency antenna, affixed to at least one of the bottom wall, the side wall, the back wall, the top wall, and the front wall...a radio frequency identification tag reader, operably connected to the radio frequency antenna, for transmitting to and receiving radio frequency signals from the radio frequency identification tag, the radio frequency identification tag reader being operably configured to interrogate any radio frequency identification tags located within the display stand...the radio frequency identification tag reader being operably connectable to a remotely

situated monitoring apparatus, for providing a remote indication of the presence and absence of the at least one article containing a radio frequency identification tag, within the display.”

Neither Garber nor Walsh, considered alone or in combination, describe or suggest a system for monitoring inventory in a point of purchase display as recited in Claim 9. Specifically, neither Garber nor Walsh describes or suggests a portable display stand including a single radio frequency antenna, affixed to at least one of the bottom wall, the side wall, the back wall, the top wall, and the front wall and a radio frequency identification tag reader being operably configured to interrogate any radio frequency identification tags located within the display stand. Rather, in contrast to the present invention, Garber describes a portable cart having an antenna affixed to each shelf and only able to interrogate radio frequency identification tag on that shelf and Walsh describes a display stand for use in point-of-purchase display including shelves supported and secured using a plastic hook affixed to the display stand with pop rivets or eyelets. For reasons set forth above, Applicant respectfully submits that Claim 9 is patentable over Garber in view of Walsh.

Claim 10 recites a system for monitoring inventory in a point of purchase display wherein the inventory includes at least one article being displayed for sale having a radio frequency identification (RFID) tag attached thereto and wherein the system includes “a portable display stand, having at least one shelf, operably configured to support the at least one article thereon, the portable display stand configured to be collapsible...the portable display stand further having at least one of a bottom wall, a side wall, a back wall, a top wall, and a front wall...a single radio frequency (RF) antenna in contact with the back wall wherein the at least one RF antenna is configured to...receive RF energy from an RFID reader...transmit RF energy to interrogate the RFID tag attached to the at least one article positioned on any of the at least one shelf...receive an RF signal from the interrogated RFID tag, the received RF signal indicating a presence of the at least one article.

Neither Garber nor Walsh, considered alone or in combination, describe or suggest a system for monitoring inventory in a point of purchase display as recited in Claim 10. Specifically, neither Garber nor Walsh describes or suggests a portable display stand including a single radio frequency (RF) antenna in contact with the back wall wherein the at least one RF antenna is configured to transmit RF energy to interrogate the RFID tag attached to the at least one article positioned on any of the at least one shelf. Rather, in contrast to the

present invention, Garber describes a portable cart having an antenna affixed to each shelf and only able to interrogate radio frequency identification tag on that shelf and Walsh describes a display stand for use in point-of-purchase display including shelves supported and secured using a plastic hook affixed to the display stand with pop rivets or eyelets. For reasons set forth above, Applicant respectfully submits that Claim 10 is patentable over Garber in view of Walsh.

Claims 11-20, and 24 depend from independent Claim 10. When the recitations of Claims 11-20, and 24 are considered in combination with the recitations of Claim 10, Applicant submits that dependent Claims 11-20, and 24 likewise are patentable over Garber in view of Walsh.

Notwithstanding the above, Applicant respectfully submits that the Section 103 rejection of the presently pending claims is not a proper rejection. Applicant respectfully submits that combining Garber and Walsh still does not describe or suggest the claimed embodiments of the present invention.

As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Garber nor Walsh considered alone or in combination, describe or suggest the claimed combination. Further, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. It appears that the present rejection reflects an impermissible attempt to use the instant claims as a guide or roadmap in formulating the rejection using impermissible hindsight reconstruction of the invention. The United States Supreme Court has recently expressed concern regarding distortion caused by hindsight bias in an obvious analysis, and notes that factfinders should be cautious of arguments reliant upon ex post reasoning. See KSR International Co. v. Teleflex, Inc., 127 S. Ct. 1727, 82 USPQ2d at 1397. See also Ex parte Rinkevich, 2007 WL 1552288 (Bd. Pat. App. & Interf. May 29, 2007). Following the Supreme Court's guidance provided in KSR International Co. v. Teleflex, Inc. with respect to impermissible hindsight, a person of ordinary skill in the art having common sense at the time of the invention would not have reasonably looked to

Walsh to solve the problem associated with interrogating RFID enabled articles located on any shelf of a display stand. Rather, such a suggestion is disclosed only in the present application.

Applicant submits that the presently claimed invention is not obvious over any combination of Garber and/or Walsh. The United States Supreme Court has recently held that obviousness rejections must be supported with "articulated reasoning with some rational underpinning to support the conclusion of obviousness." See KSR International Co. v. Teleflex, Inc., 127 S. Ct. 1727 at 1740-41, 82 USPQ2d at 1396, citing In re Kahn, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006) ("[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness"). The present rejection does not appear to meet this standard as it reflects no articulate reasoning why the independent or dependent claims are believed to be obvious, but rather is stated in the form of a conclusion of obviousness. Applicant accordingly requests specific explanation and articulation regarding the reasoning and rational underpinning for any obviousness rejection of the claims. It is not believed that adequate reasons why the presently claimed invention is believed to be obvious have been provided on the present record.

For at least the reasons set forth above, Applicant respectfully requests that the rejection of Claims 1 and 3-22 under 35 U.S.C. § 103(a) be withdrawn.

The rejection of Claim 23 under 35 U.S.C. § 103(a) as being unpatentable over Garber et al. (U.S. Patent No. 7,044,373) ("Garber") in view of Walsh et al. (U.S. Patent No. 6,394,290) ("Walsh") and further in view of Weaver (U.S. Patent No. 6,813,771) is respectfully traversed.

Garber and Walsh are described above. Weaver describes a portable display and listening stand is configured to display, demonstrate and sell media such as music compact disks (CDs). A bottom compartment accommodates a CD player that is set up to drive a headphone set that is made available to a user. An open bin located above the bottom compartment holds a small quantity of CDs packaged in individual "jewel-box" cases. The display rack can be made integral or can be assembled from two or more component portions

that can be separated and that can nest together for convenient storage, transportation or shipping.

Claim 9 recites a system for monitoring inventory in a point of purchase display including a portable display stand, having at least one shelf, operably configured to support an article being displayed for sale positioned thereon, the portable display stand substantially fabricated from paperboard...the display stand further having at least one of a bottom wall, a side wall, a back wall, a top wall, a front wall...at least one article being displayed for sale, said article operably configured to be positioned on the at least one shelf...the at least one article containing a radio frequency identification tag...a single radio frequency antenna, affixed to at least one of the bottom wall, the side wall, the back wall, the top wall, and the front wall...a radio frequency identification tag reader, operably connected to the radio frequency antenna, for transmitting to and receiving radio frequency signals from the radio frequency identification tag, the radio frequency identification tag reader being operably configured to interrogate any radio frequency identification tags located within the display stand...the radio frequency identification tag reader being operably connectable to a remotely situated monitoring apparatus, for providing a remote indication of the presence and absence of the at least one article containing a radio frequency identification tag, within the display."

None of Garber, Walsh, nor Weaver considered alone or in combination, describe or suggest a system for monitoring inventory in a point of purchase display as recited in Claim 9. Specifically, none of Garber, Walsh, nor Weaver describes or suggests a portable display stand including a single radio frequency antenna, affixed to at least one of the bottom wall, the side wall, the back wall, the top wall, and the front wall and a radio frequency identification tag reader being operably configured to interrogate any radio frequency identification tags located within the display stand. Rather, in contrast to the present invention, Garber describes a portable cart having an antenna affixed to each shelf and only able to interrogate radio frequency identification tag on that shelf and Walsh describes a display stand for use in point-of-purchase display including shelves supported and secured using a plastic hook affixed to the display stand with pop rivets or eyelets and Weaver describes a portable display stand that when assembled from two or more component portions, the portions can be separated and nested together for shipping. For reasons set forth

above, Applicant respectfully submits that Claim 9 is patentable over Garber in view of Walsh and further in view of Weaver.

Claim 23 depends from independent Claim 9. When the recitations of Claim 23 are considered in combination with the recitations of Claim 9, Applicant submits that dependent Claim 23 likewise is patentable over Garber in view of Walsh and further in view of Weaver.

For at least the reasons set forth above, Applicant respectfully requests that the rejection of Claim 23 under 35 U.S.C. § 103(a) be withdrawn.

The rejection of Claim 24 under 35 U.S.C. § 103(a) as being unpatentable over Garber et al. (U.S. Patent No. 7,044,373) ("Garber") in view of Walsh et al. (U.S. Patent No. 6,394,290) ("Walsh") and further in view of Palmer (U.S. Patent No. 5,530,702) is respectfully traversed.

Garber and Walsh are described above. Palmer describes a one-time use RFID tag for use in a supermarket "Checkout System". The RFID tags are attached conformably to articles held for sale in a supermarket. The purchaser loads up a shopping cart with the tagged articles to be purchased, and moves the cart into an enclosure at the point of sale which is appropriately shielded from the entrance or escape of radio-frequency emissions. Once ID codes have been successfully received for all tagged articles, the network controller transmits a signal to the RFID tags permanently disabling the RFID tags from attempting to communicate further.

Claim 10 recites a system for monitoring inventory in a point of purchase display wherein the inventory includes at least one article being displayed for sale having a radio frequency identification (RFID) tag attached thereto and wherein the system includes "a portable display stand, having at least one shelf, operably configured to support the at least one article thereon, the portable display stand configured to be collapsible...the portable display stand further having at least one of a bottom wall, a side wall, a back wall, a top wall, and a front wall...a single radio frequency (RF) antenna in contact with the back wall wherein the at least one RF antenna is configured to...receive RF energy from an RFID reader...transmit RF energy to interrogate the RFID tag attached to the at least one article positioned on any of the at least one shelf...receive an RF signal from the interrogated RFID tag, the received RF signal indicating a presence of the at least one article.

None of Garber, Walsh, nor Palmer considered alone or in combination, describe or suggest a system for monitoring inventory in a point of purchase display as recited in Claim 10. Specifically, none of Garber, Walsh, nor Palmer describes or suggests a portable display stand including a single radio frequency (RF) antenna in contact with the back wall wherein the at least one RF antenna is configured to transmit RF energy to interrogate the RFID tag attached to the at least one article positioned on any of the at least one shelf. Rather, in contrast to the present invention, Garber describes a portable cart having an antenna affixed to each shelf and only able to interrogate radio frequency identification tag on that shelf, Walsh describes a display stand for use in point-of-purchase display including shelves supported and secured using a plastic hook affixed to the display stand with pop rivets or eyelets and Palmer describes a single use RFID tagged article that is disabled after reading the tag for use in a shopping cart checkout system that identifies RFID enabled articles in a shopping cart. Notably, Palmer describes articles that could come from any shelf in the store and placed in the cart, however, Palmer does not describe nor suggest receiving an RF signal from the interrogated RFID tag indicating a presence of the at least one article being displayed for sale on the point of purchase display. The RFID tagged articles described in Palmer are in a shopping cart and not the point of purchase display. For reasons set forth above, Applicant respectfully submits that Claim 10 is patentable over Garber in view of Walsh and further in view of Palmer.

Claim 24 depends from independent Claim 10. When the recitations of Claim 24 are considered in combination with the recitations of Claim 10, Applicant submits that dependent Claim 24 likewise is patentable over Garber in view of Walsh and further in view of Palmer.

For at least the reasons set forth above, Applicant respectfully requests that the rejection of Claim 24 under 35 U.S.C. § 103(a) be withdrawn.

Claim 25 recites a system for monitoring inventory in a point of purchase display including "a portable display stand comprising corrugated paperboard configured to be collapsible, the display stand including a plurality of shelves configured to support an article being displayed for sale thereon, the display stand further comprising a back wall opposing an open display front, said back wall comprising a single radio frequency antenna...a radio frequency identification tag reader, operably connected to the radio frequency antenna, for transmitting and receiving radio frequency signals between the reader and a radio frequency

identification enabled article positioned on any of the plurality of shelves...a monitoring apparatus communicatively coupled to the radio frequency identification tag reader, the monitoring apparatus positioned remotely from the tag reader and configured to maintain a running inventory of the radio frequency identification enabled articles positioned on any of the plurality of shelves of the portable display stand.”

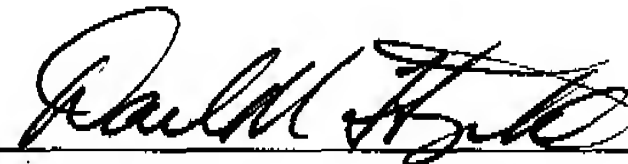
Neither Garber nor Walsh considered alone or in combination, describe or suggest a system for monitoring inventory in a point of purchase display as recited in Claim 25. Specifically, neither Garber nor Walsh describes or suggests a portable display stand that includes a back wall opposing an open display front wherein the back wall comprises a single radio frequency antenna and a radio frequency identification tag reader operably connected to the radio frequency antenna for transmitting and receiving radio frequency signals between the reader and a radio frequency identification enabled article positioned on any of the plurality of shelves. Rather, in contrast to the present invention, Garber describes a portable cart, including wooden shelves that require an antenna attached to each shelf to be able to interrogate articles only on that shelf and Walsh describes a display stand for use in point-of-purchase display including shelves supported and secured using a plastic hook affixed to the display stand with pop rivets or eyelets. Moreover, none of Garber, Walsh, nor Palmer describe or suggest a monitoring apparatus communicatively coupled to the radio frequency identification tag reader wherein the monitoring apparatus positioned remotely from the tag reader and configured to maintain a running inventory of the radio frequency identification enabled articles positioned on any of the plurality of shelves of the portable display stand. Rather, in contrast to the present invention, Garber describes a portable cart, including wooden shelves that require an antenna attached to each shelf to be able to interrogate articles only on that shelf, Walsh describes a display stand for use in point-of-purchase display including shelves supported and secured using a plastic hook affixed to the display stand with pop rivets or eyelets, and Palmer describes a shopping cart checkout system that identifies RFID enabled articles in a shopping cart and communicates with a computer to automatically increment or decrement a present inventory tally. Notably, Palmer describes maintaining a tally of articles that could come from any shelf in the store and placed in the cart being inventoried, however, Palmer does not describe nor suggest maintaining a running inventory of the radio frequency identification enabled articles positioned on any of the plurality of shelves of the portable display stand. For reasons set forth above, Applicant respectfully

submits that Claim 25 is patentable over Garber in view of Walsh and Garber in view of Walsh and further in view of Palmer.

Claim 26 depends from independent Claim 25. None of Garber, Walsh, nor Palmer describe or suggest a corrugated paperboard display stand is configured to facilitate interrogation of the radio frequency identification enabled article positioned on any of the shelves by the single radio frequency antenna. Garber and Walsh do not describe corrugated paperboard at all and Walsh does not describe nor suggest radio frequency identification enabled articles nor a configuration that would facilitate interrogation of the radio frequency identification enabled articles. When the recitations of Claim 26 are considered in combination with the recitations of Claim 25, Applicant submits that dependent Claim 26 likewise is patentable over Garber in view of Walsh and further in view of Palmer.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



Daniel M. Fitzgerald
Registration No. 38,880
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070